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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/843,637	04/26/2001	Shuhei Marukawa	10873.703US01	9215

23552 7590 06/18/2003

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EXAMINER
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CHANEY, CAROL DIANE

ART UNIT	PAPER NUMBER
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1745

DATE MAILED: 06/18/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

A37

<b>Office Action Summary</b>	<b>Applicati n No.</b> 09/843,637	<b>Applicant(s)</b> MARUKAWA ET AL.	
	<b>Examiner</b> Carol Chaney	<b>Art Unit</b> 1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Peri d f r Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 11 April 2003.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 2 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Pri rity under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

***Summary***

Claim 1 has been amended.

Applicant's arguments filed 08 April 2003 have been fully considered but they are not persuasive.

Claims 1 and 2 are rejected for reasons of record.

***Claim Rejections - 35 USC § 112***

Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention for essentially reasons of record.

The phrase "...a predetermined amount of irreversible deformation will be caused in the battery container..." is indefinite because applicant's specification fails to disclose criteria for determining the predetermined deformation.

***Claim Rejections - 35 USC § 102***

Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Shimakawa et al., US Patent 5,817,435 for reasons of record. The rejection is repeated below for convenience.

Shimakawa et al. disclose a battery comprising two end plates (33) and a plurality of cells (10) stacked adjacent to each other and bound by the end plates. The cells include a casing (12) of polyphenylene ether, polystyrene and preferably an

elastomer. (column 3, lines 50-55,) The dimensions of the end plates and the binding members, which determine binding forces, are set in part by the number of stacked cells in the battery. (Column 6, lines 13-28.) The effect of the composition of polymer alloys on creep strain and elastic modulus was determined. (Column 7, lines 20-35.) These properties reflect compressibility and stiffness of the battery container. Suitable maximum amounts of deformation of the battery casings, which result in acceptable cycle lives for the batteries, were determined. (Column 9, lines 15-50.)

### ***Response to Arguments***

Applicant's arguments filed 08 April 2003 have been fully considered but they are not persuasive.

With regards to the 35 U.S.C. 112, second paragraph rejections, applicant asserts the phrase "predetermined amount of irreversible deformation" would be easily understood by one of ordinary skill in the art. As noted by the applicant the combined battery of the instant invention has binding forces which avoid "undesirable irreversible deformation of the battery container." However, applicants' specification provides no guidance as to how much irreversible deformation is undesirable, and therefore a "predetermined amount of irreversible deformation" is indefinite.

Applicant asserts Shimakawa et al. fail to teach or suggest a combined battery in which the binding force is selected not to exceed a threshold value based upon the stiffness of the battery. The end plates (33) of the combined battery disclosed by

Shimakawa et al. hold the battery modules (10) together by a tie rods and nut arrangement (34). Since the endplates are shown intact, the tie rod nuts have not been over-tightened to the point that either the end plates or the battery containers have cracked, or undergone undesirable irreversible deformation.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol Chaney whose telephone number is (703) 305-3777. The examiner can normally be reached on Mon - Fri 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 703-308-2383. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Carol Chaney  
Primary Examiner  
Art Unit 1745

cc

June 15, 2003